IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE.

WRIT PETITION NO. 919 OF 2005.

M/s Radiant Exports & anr. ..Petitioner.
vs.
The Commissioner of Income-tax,
Mumbai-XVI, Mumbai & ors. ..Respondents.

Shri A.R. Singh for the petitioner.
Shri Pankaj Kapoor for the respondent

CORAM: V.C.DAGA &
J.P.DEVADHAR,JJ.
DATED: 11-4-2005.

P.C.

1. Heard finally by consent of the parties. Shri Kapoor waives service on behalf of the respondents.

2. Having considered the impugned order dated 15th June 2004, we find that the Commissioner of Income-tax, Bombay-XVI failed to take into consideration the relevant aspect that the petitioner did receive the sale proceeds from some parties after some time over which the petitioner had no control. By overlooking this vital aspect the impugned order is vitiated.

3. We accordingly, quash and set aside the order dated 15th March 2004 passed by the Commissioner of Income-tax, Mumbai-XVI and direct him to pass appropriate order afresh in consonance with the provisions of section 80HHC(2) after giving an opportunity of being heard to the petitioner. No

order as to costs.